

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ROBERT E. RIZZI,	:	CIVIL ACTION
Plaintiff,	:	
	:	
v.	:	
	:	
JO ANNE B. BARNHART,	:	
COMMISSIONER OF SOCIAL	:	
SECURITY,	:	
Defendant	:	NO. 06-3169

ORDER

AND NOW, this 3rd day of August, 2007, upon consideration of the Plaintiff's Request for Review (Docket No. 7), the Defendant's response thereto (Docket No. 9), and the Plaintiff's reply (Docket No. 9), and after careful review¹ of the Report and Recommendation of United States Magistrate Judge Timothy R. Rice (Docket No. 11), it is hereby ORDERED that:

1. The Report and Recommendation is APPROVED and ADOPTED in its entirety.²

¹ "Within ten days after being served with a copy" of a magistrate judge's proposed findings and recommendations, "any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court." 28 U.S.C. § 636(b)(1)(C). While the statute is silent regarding the consequences of a party's failure to file written objections to a report and recommendation within ten days, the Court of Appeals for the Third Circuit has determined that such a failure may result in the loss of the right to *de novo* review in the district court. See Henderson v. Carlson, 812 F.2d 874 (3d Cir. 1987). Here, neither party objected to the Report and Recommendation of Magistrate Judge Rice. Therefore, the Court reviewed the Report and Recommendation for "clear error." See Oldrati v. Apfel, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998); see also Fed. R. Civ. P. 72(b) advisory committee's note (1983) ("When no timely objection is filed, the [district] court need only satisfy itself that there is no clear error on the face of the record in order to accept the [magistrate judge's] recommendation.").

² The Court notes only that because no motions for summary judgment were filed in this case, the recommendation regarding the disposal of such motions shall not be adopted.

2. The matter is REMANDED to the Commissioner for further review consistent with the Report and Recommendation.

BY THE COURT:

S/Gene E.K. Pratter
GENE E. K. PRATTER
United States District Judge